

Before You Buy- Before You Build

Are you considering buying property near tidal water? Building an oceanfront home, a retail center, or marina? Do you want to put in a bulkhead or a dock? Or maybe an addition to an existing house in a coastal town? In each of these cases, New Jersey’s coastal permit program may affect where and whether you buy, build, or add on. In New Jersey and throughout the United States, coastal property is regulated to protect public safety and the environment.

New Jersey protects coastal waters and the land adjacent to them under a variety of laws including the Waterfront Development Law (N.J.S.A. 12:5-3), the Coastal Area Facility Review Act (N.J.S.A. 13:19) and the Wetlands Act of 1970 (N.J.S.A. 13:9A). The Department of Environmental Protection (DEP) applies the New Jersey Coastal Permit Program Rules, N.J.A.C. 7:7, and the Coastal Zone Management Rules, N.J.A.C. 7:7E, to determine what may or may not be built under these three laws.

Why Does the State Regulate Coastal Land?

New Jersey’s coastline is a rich and diverse fabric of natural wonders and economic engines that improve our quality of life and enrich our economy. Businesses, tourists, and residents are drawn to New Jersey’s coast for its many economic and recreational opportunities. Coastal industries contribute enormously to New Jersey’s economy. Coastal land provides crucial habitat for a wealth of wildlife, including migrating birds, commercially valuable fish and shellfish, and sporting and recreational species.

Yet our coastline is under threat from human activities. Hasty, uncoordinated development along the New Jersey shore has already had an impact on this fragile ecosystem. Regulation is necessary to prevent pollution, destruction of vital wildlife habitat, increases in rainwater runoff, and destruction of the natural beauty that attracts visitors. Regulation of coastal

activities is also necessary in some cases to prevent loss of life and property from coastal storms, erosion, and flooding.

What Geographic Areas and Activities are Regulated?

THE COASTAL AREA FACILITY REVIEW ACT (N.J.S.A. 13:19)

CAFRA applies to projects near coastal waters in the southern part of the State. The CAFRA area begins where the Cheesequake Creek enters Raritan Bay in Old Bridge, Middlesex County. It extends south along the coast around Cape May, and then north along the Delaware Bay ending at the Kilcohook National Wildlife Refuge in Salem County. The inland limit of the CAFRA area follows an irregular line drawn along public roads, railroad tracks, and other features. The CAFRA area varies in width from a few thousand feet to 24 miles measured straight inland from the shoreline. (see diagram)

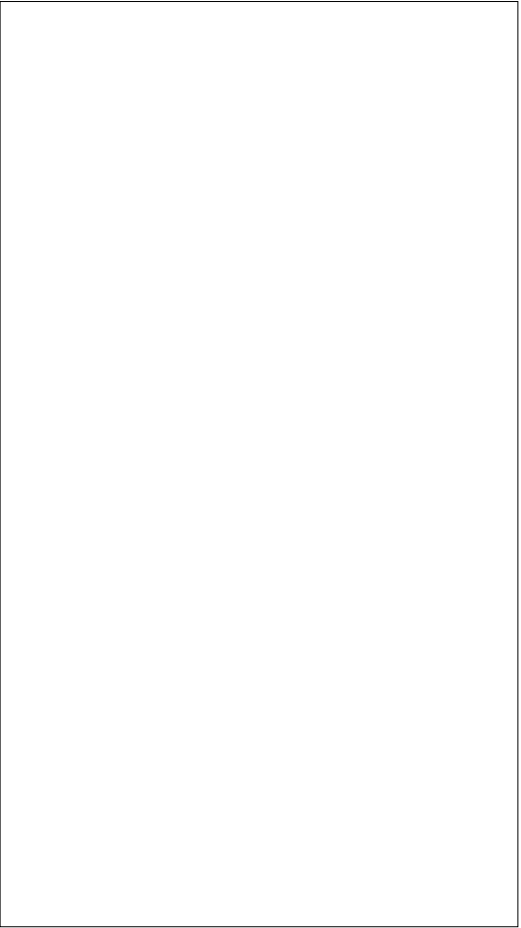
The law divides the CAFRA area into pieces or zones, and regulates different types of development in each zone. Generally, the closer you are to the water, the more likely it is that your development will be regulated.

The CAFRA law regulates almost all development activities involved in residential, commercial, or industrial development, including construction, relocation, and enlargement of buildings or structures; and all related work, such as excavation, grading, shore protection structures, and site preparation.

THE WATERFRONT DEVELOPMENT LAW (N.J.S.A. 12:5-3)

The Waterfront Development Law is a very old law, passed in 1914, that seeks to limit problems that new development could cause for existing navigation channels, marinas, moorings, other existing uses, and the environment.

If you are proposing any development in a tidally flowed waterway anywhere in New Jersey, you need a Waterfront Development Permit. Examples of projects that need a



Waterfront Development Permit include docks, piers, pilings, bulkheads, marinas, bridges, pipelines, cables, and dredging.

For development outside of the CAFRA area, the Waterfront Development Law regulates not only activities in tidal waters, but also the area adjacent to the water, extending from the mean high water line to the first paved public road, railroad or surveyable property line. At a minimum, the zone extends at least 100 feet but no more than 500 feet inland from the tidal water body. Within this zone, DEP must review construction, reconstruction, alteration, expansion or enlargement of structures, excavation, and filling. However, this part of the law does not apply within the Hackensack Meadowlands Development District.

WETLANDS ACT OF 1970 (N.J.S.A. 13:9A)

The land immediately adjacent to a tidal water often contains coastal wetlands. These wetland areas are a vital coastal resource serving as habitat for many creatures. The wetlands also serve as buffers that protect upland areas from the flooding and damage caused by storms.

The Wetlands Act of 1970 requires the DEP to regulate development in coastal wetlands. Any time land is located near tidal water, there is a good possibility of coastal wetlands on the property. Some signs that may indicate the presence of wetlands are tall reeds and grasses, or ground that is often soggy. The regulated coastal wetlands are shown on maps prepared by the DEP. Unlike DEP’s freshwater wetlands maps, the coastal wetlands maps are used to determine jurisdiction. These maps are available for public inspection at each county clerk’s office.

You must have a coastal wetlands permit to excavate, dredge, fill or place a structure on any coastal wetland shown on the maps.

Are There Any Exemptions?

CAFRA contains exemptions for certain minor activities such as maintenance, plantings, decks or similar structures at a residence, rebuilding a damaged structure on the same building footprint (if it was damaged after 7/19/94), and enlarging a dwelling without increasing its footprint or number of units. Call the DEP for a complete list of available exemptions.

The Waterfront Development Program exempts the repair, replacement or reconstruction of some legally existing docks, piers, bulkheads and buildings, if the structure existed before 1978 and if other conditions are met. Also, there are exemptions for certain single family homes and for small (5,000 square feet) additions to certain existing structures, if the single family home or structure is located more than 100 feet inland from the mean high water line.

How Do I Tell if My Property is Regulated Under the Coastal Permit Program?

- There are several ways to gather information on whether a property is regulated:
 - ❑ To get a rough idea of whether your property is in the CAFRA area, consult the diagram in this brochure;
 - ❑ If your county or public library has a GIS (Geographic Information System) computer system, view the CAFRA maps and the coastal wetlands maps on their computer;
 - ❑ Contact your municipal officials. In many cases, they will know if the municipality includes regulated areas; or
 - ❑ For a definite determination of whether your property is regulated, write to the DEP at the address in this pamphlet, asking if the property is regulated under the DEP Coastal Permit Program. Include the street address and block and lot number for the property, and a map showing the location of the property.

I think I Need A Coastal Permit. What do I do?

If you think your project might need a coastal permit you can get more information from the Land Use Regulation web site a www.state.nj.us/dep/landuse or by calling the number listed for your county in this pamphlet. If you do have to obtain a coastal permit, you may want to hire a professional engineer or environmental consultant to help you prepare and submit your application.

Are There Other Regulations I Should Know About?

- Check the table of DEP Land Use Regulation Programs that follows to see if you may be affected by other DEP Land Use Regulation Programs. In addition, the following regulatory programs administered by other agencies may affect projects in New Jersey coastal areas:
 - ❑ Federal Wetlands Program (404 Program).

In some parts of New Jersey, in addition to a DEP freshwater wetlands permit, you may also need a federal wetlands permit, issued by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. An Army Corps permit is needed in the Hackensack Meadowlands area, Greenwood Lake, and in any tidally flowed waters or wetlands. Contact the U.S. Army Corps of Engineers in Philadelphia at (215) 656-6500, or New York City at (212) 264-4185 or 264-6731.

☐ Tidelands Program. The State of New Jersey owns most lands currently or formerly flowed by the tide. If you want to build in or near tidal water, the State may own those lands. If so, you may not build without a grant, lease, or license. Contact the DEP’s Bureau of Tidelands Management at (609) 292-2573 for more information.

DEP LAND USE REGULATION PAMPHLETS:

- Guide to NJ’s Coastal Permitting Program
- Guide to NJ’s Freshwater Wetlands Permitting Program
- Guide to NJ’s Stream Encroachment Permitting Program

TO CONTACT DEP: (all area codes are 609)
Essex, Morris, Bergen 633-9277
Middlesex, Hudson, Somerset, Union 633-6754
Hunterdon, Mercer, Passaic, Sussex, Warren 984-0194 or 777-0454
Cumberland, Camden, Salem, Gloucester 984-0162 or 633-6755
Cape May, Monmouth Atlantic, Ocean, Burlington 984-0288 or 292-8262

DEP LAND USE REGULATION PROGRAMS

Law	Natural feature protected	Types of activities regulated
Freshwater Wetlands Protection Act, N.J.S.A. 13:9B (rules at N.J.A.C. 7:7A)	Freshwater wetlands	Disturbance or destruction of water level, soil or vegetation, such as by draining, filling, or clearing
	Transition areas or “buffers” around freshwater wetlands	Same activities as in freshwater wetlands, except that normal property maintenance is allowed
	Lakes, ponds, rivers, streams, etc.	Discharge of dredged or fill material
Flood Hazard Area Control Act (stream encroachment), N.J.S.A. 58:16A (rules at N.J.A.C. 7:13)	Rivers, lakes, and streams, and their flood plains	Any construction activity or human land disturbance, such as placement of structures or fill, excavation, dredging
Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19 (rules at N.J.A.C. 7:7 and 7:7E)	Most shore areas south of Cheesequake Creek and along the Delaware south of Kilcohook National Wildlife Refuge	Development activities, including excavation, grading, filling, and site preparation; and construction or placement of structures, including docks, bulkheads, shore protection structures, single family homes, residential developments, and commercial or industrial facilities
Waterfront Development Act, N.J.S.A. 12:5-3 (rules at N.J.A.C. 7:7 and 7:7E)	All land within or under tidally flowed waters throughout New Jersey; and in addition land adjacent to tidally flowed waters outside the CAFRA area, up to a maximum of 500 feet from the high water line	
Wetlands Act of 1970, N.J.S.A. 13:9A (rules at N.J.A.C. 7:7 and 7:7E)	Wetlands shown on the DEP Coastal Wetland Maps	Placement of structures or fill, excavation or dredging, application of pesticides
Tidelands Act, N.J.S.A. 12:3-1	Lands that are now tidally flowed, or were formerly tidally flowed (unless specifically granted to another owner by the State)	Placement of a structure that will exist for more than ten days, excavation, dredging

Land Use Regulation Program
Department of Environmental Protection
501 East State Street
P.O. Box 439
Trenton, New Jersey 08625-0439
Telephone: 609-292-0060
Fax: 609-292-8115
www.state.nj.us/dep/landuse

The DEP has made every effort to ensure that the information provided here is accurate. However, this pamphlet is only a general guide. For a complete, detailed description of the Coastal Permit program, please refer to the Coastal Zone Management rules at N.J.A.C. 7:7E, and the Coastal Permit Program rules at N.J.A.C. 7:7.

April 1999

Guide to
New Jersey’s
Coastal
Permitting Program



New Jersey Department of
Environmental Protection